



After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that Defendant Dale's motion to dismiss be denied.

**IT IS, THEREFORE, ORDERED** that the motion of Defendant Frank Dale to dismiss is hereby **DENIED**.

**Signed: May 9, 2005**

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

